

Trademark Dilution Act in 1995, the issue of trademark dilution became more an issue of property protection. The purpose of that law was to enable businesses" to protect the investment that companies have made in branding their products. Consumer confusion was no longer required to establish "dilution." Not surprisingly, private lawsuits in this area jumped from 2,405 in 1990 to 4,187 in 2000.

For example, Starbucks went after a local coffee shop in my district that was named after its owner, Samantha Buck Lundberg. The coffee shop bore the nickname given to her by her family and friends—Sambuck. Ringling Bros.-Barnum and Bailey Circus sued the State of Utah over Utah's advertising slogan that it had "The Greatest Show on Earth." To the circus this slogan was an obvious play on the long time identification of the circus as "The Greatest Show on Earth." Microsoft sued to prevent use of the term "Lindows" for the Linux operating system software and website produced by Lindows, Inc., arguing that it was clearly an attempt to play on the Windows designation of its own operating system. Lindows eventually changed the name of the product and website to "Linspire" after losing court cases. Best Western International the hotel/motel chain appears to be trying to claim sole right to the word "Best" when it comes to using the word in names of hotels or motels. It has sued both Best Inns and Best Value Inns, contending that those names infringe on its trademark.

In recent years, the Supreme Court addressed these lawsuits in *Moseley, et al., DBA Victor's Little Secret v. V Secret Catalogue, Inc., et al.*, in which Victoria's Secret sued a small business in Kentucky. In its opinion, the Court ruled that companies under the Federal Trademark Dilution Act have to prove that their famous brand is actually being damaged before they can use dilution law to force another person or company to stop using a word, logo, or color.

Since trademark laws have an effect not only on famous companies but also on the many small businesses with legitimate business interests, any anti-dilution legislation should be very carefully considered so as not to interfere with the rights of small businesses. The goal must be to protect trademarks from subsequent uses that blur, dilute or tarnish that trademark, but it must also be the protection of small business interests from its more powerful corporate counterparts.

Unfortunately, this bill will change trademark law to make it easier for large companies to sue individuals and businesses for trademark dilution, thus potentially creating rights in perpetuity for trademarks. This bill states that no actual harm will have to be proven; large companies will be able arbitrarily to file lawsuits against small businesses and private citizens.

I agree with the Supreme Court in its unanimous decision in *Moseley*. I think that companies in seeking to impose their trademarks upon the public must show actual harm. If not, we run the risk of trademark owners being able to lock up large portions of our shared language. This open-ended invitation to litigate is especially troubling at a time when even colors and common words can be granted trademark protection.

I urge my colleagues to oppose this bill.

EFFICIENT ENERGY THROUGH
CERTIFIED TECHNOLOGIES AND
ELECTRICITY RELIABILITY ACT
OF 2005

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 2005

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce the Efficient Energy through Certified Technologies and Electricity Reliability (EFFECTER) Act of 2005. I am joined in this effort by a diverse coalition of my colleagues including Mr. MARKEY of Massachusetts, as well as Senator SNOWE of Maine and Senator FEINSTEIN of California. This bill is a more developed version of the EFFECTER Act that Mr. MARKEY and I introduced in April 2004.

With the President's Energy Plan currently stalled in the other body, we believe that this bill can deliver on one of the less controversial issues when it comes to energy policy—energy efficiency. I support the President's Energy Plan and voted in favor of H.R. 6 when it came before this body for final passage. It is my hope that this fine legislation will implement a desperately needed energy policy in this country.

My constituents in San Diego suffered through the Energy Crisis during the summer of 2001. The aftershocks of the rolling blackouts and outrageously high energy prices are still being felt. Gas prices in California are currently the highest in the country at over \$2.50 per gallon. We risk another major blackout and continually soaring fuel prices if we choose to wait before enacting a long term energy policy. My constituents, and all the American people, need solutions now. I am introducing this bill in an effort to pass a portion of our long-term energy plan that can produce results now.

In our legislation introduced last year, Congressman MARKEY and I created legislation that would give builders and consumers a reason to construct housing and purchase equipment that not only saves the consumer money in the long run, but also helps save energy. We have taken this idea and have put it into this bill along with other cost-saving provisions. This legislation offers tax incentives to encourage the production and sale of technologically advanced, energy-efficient buildings and equipment. The incentives will reduce peak power demand, which can diffuse the risk of blackouts and high electricity prices. Peak power shortages cost California \$15 billion in 2000 alone.

These tax incentives are performance based, not cost based. One dollar of federal tax incentives for energy efficiency offered today will not be paid until January-April 2005, but manufacturers will respond to the incentives by investing in production facilities for more efficient products immediately. This will promote the creation of competitive markets for new technologies and designs that are not widely available today, but have the possibility of being cost effective to the consumer in the future.

This bill will have the government lead by example by cutting our own energy bills by upgrading our building energy efficiency standards and purchase specifications, and reauthorizing federal Energy Savings Performance

Contracts, which allow private companies to partner with the government for mutually beneficial cost-effective energy savings. Finally, it includes mandatory electricity reliability requirements that address directly the failures that caused the east coast blackout of 2003.

This bill increases the security and reliability of the electric grid, while reducing natural gas and electricity prices by cutting the demand for natural gas and electricity in the near term, as well as in the longer term. Grid security is improved by adopting mandatory standards for operation.

The EFFECTER Act seeks to address two key power supply issues—electric reliability and natural gas prices. Reducing peak electric demand not only eases pressure on the electric grid but also reduces utility demand for natural gas, a major factor that has led to higher prices. Over the next ten years, this legislation can produce natural gas savings of over 3.3 quads annually—over 12 percent of total gas use; and peak electricity savings of 145,000 megawatts—equivalent to 350 new power plants of 400 MW capacity.

Mr. Speaker, please join me in supporting the EFFECTER Act which will help reduce energy needs and provide for a cleaner environment. Let's respond to our country's desperate needs today, before we have another energy crisis.

HONORING THE CONTRIBUTIONS
OF MARY JOYCE YOUNG, MAR-
ION HIGH SCHOOL TEACHER OF
THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 2005

Mr. CUELLAR. Mr. Speaker, I rise to honor the accomplishments of Mary Joyce Young, Marion High School Teacher of the Year.

Mary Joyce Young came to the profession of teaching late in life. She worked in a medical office for 25 years before returning to Southwest Texas State University to receive her Bachelor's and Master's degrees. She has taught at Marion High School since her graduation in 1988.

Ms. Young believes in teaching her students more than facts and figures. She aims to teach them character traits that will benefit them for the rest of their lives: self-discipline, integrity, and fairness in the home and the workplace. She says that her work is to create well-rounded citizens, as well as successful students.

Ms. Young teaches four subjects at Marion High School: Senior English, British Literature, Government-Economics, and Creative Writing. She loves her subjects, and works every day to teach her students to love them as well.

Mary Joyce Young is an excellent educator, who has changed the lives of many Marion High School students for the better. She is a credit to her community, and a blessing to the people of Marion. I am proud to have had the chance to recognize her here today.